

# Advance Care Planning Guide

How to think about, talk about and plan for serious illness or injuries which may keep you from making your own health care decision.



*New Hampshire Advance Directives:*

Durable Power of Attorney for Health Care (DPOAH)

Living Will



Foundation for  
Healthy Communities

[www.healthynh.com](http://www.healthynh.com)

## Why Advance Care Planning?

**I**t's your right to participate and plan for your care. That's why it's important to think and talk about your feelings and beliefs with your loved ones – long before critical medical decisions must be made.

This guide provides you with information about creating an “advance directive” – a legal document that states your preferences about medical care. Please read it carefully and discuss it with your family, doctor, nurse practitioner, patient representative, chaplain or other caregiver.

Completing an advance directive will give you a voice in making medical decisions if you become unable to understand or speak for yourself at the time such decisions are made. This can give you and your family/caregivers peace of mind because it allows them to understand and follow your wishes about your medical care.

- No health provider or insurance company can require you to have an advance directive document to provide you with services.
- Advanced Directives are only in effect if you should become unable to participate in decisions about your care.
- After completing the advanced directives forms, it is a good idea to talk to your designated decision maker and physician to explain your wishes, so that they will be sure of your choices for care and treatment

Completing Advanced Directives can also help you avoid having decisions made by the probate court if family members or your health care providers disagree about what is right for you.

Please note that these forms are not the same as NH statutes. You can obtain the statutory forms from NH Revised Statutes Annotated 137-J. The enclosed forms are substantially similar to NH statutes but written in simpler language. This guide was prepared based on New Hampshire law as it existed in March 2017 and printed to inform, not to advise. This is not intended to be a substitute for legal, medical, or other professional advice. Consult a trained expert for interpretation and application of current New Hampshire law. You may republish or cite any portion of this work, with the following attribution: “Reprinted by permission from the Foundation for Healthy Communities copyright © 2017. All rights reserved.” These materials may not be reproduced for resale.

## Your thoughts or answers to these questions can help provide you and your caregivers with peace of mind.

### VALUES

- What gives your life its purpose and meaning?
- What do you value most about your physical or mental well being? For example, do you love the outdoors? To read or listen to music? To be aware of whom you are with?

### FAMILY/FRIEND RELATIONSHIPS

- Who among your family and friends are important in your life?
- Have you talked about your medical care choices with your loved ones when problems arise or death comes close?

### SPIRITUAL/RELIGIOUS BELIEFS

- How would you describe your spiritual or religious life?
- Do you have a faith community, church or synagogue who support you?
- Do you have religious beliefs about medical treatment?

### MEDICAL

- Have you talked with your doctor or other health provider about your health concerns and medical treatment questions?
- Under what conditions would you want the goals of medical treatment to change from trying to continue your life to focusing on your comfort?
- Would you want a *hospice* team or *palliative care* offered to you?
- How does cost influence your decisions about medical care?
- Do you want CPR used to try to revive you if your heart stops or you stop breathing? How effective is CPR likely to be for you?

### MAKING PLANS

- If you could plan it today, what would the last day or week of your life be like? Where would you be? Who would be with you?
- What will be important to you when you are dying (comfort, no pain, family present, music, prayer, being touched or held, etc.)?
- What general comments would you like to make about dying or death?
- Are you interested in *organ* or *tissue donation*?
- Are there people to whom you want to write a letter, or for whom you want to prepare a taped message, perhaps marked to be opened at a future time?
- What are your wishes for a memorial service: songs or readings you want, or people you hope will participate?
- Would you prefer to be buried or cremated, or do you have no preference? Have you contacted a funeral home?

**NOTE: The first use of terms you may not understand have been indicated in italics and defined in the "Definitions" section at the end of this booklet.**

## Questions about advance directives

### What are advance directives?

Advance directives are instructions you give regarding your future care. They may be oral or written, and shared with family, friends, or medical providers. Family, friends and medical providers attempt to understand and fulfill your instructions, no matter what form they are in. However, to ensure that everyone understands your instructions, the State of New Hampshire recognizes a written advance directive as a legal document with two parts: a Durable Power of Attorney for Health Care and a Living Will.

### What is a Durable Power of Attorney for Health Care (DPOAH)?

A Durable Power of Attorney for Health Care is a part of the advance directive document in which you name another person to act as your *health care agent (agent)* to make medical decisions for you if you lack “*capacity*” to make health care decisions. It can apply in many different health treatment situations. You can include instructions about which treatments you do or do not want, or how long you want to try possible treatments. The agent’s authority does not take effect until or unless you are assessed to lack capacity.

### What is a Living Will?

A Living Will is a legal document that instructs your health care provider to not give life-sustaining treatment if you are *near death* or *are permanently unconscious*, without the hope of recovery. It does not require identifying a person to make any decision.

### Do I need both a Durable Power of Attorney for Health Care (DPOAH) and a Living Will?

It is a good idea to complete both parts of the advance directive document because they serve two different purposes. A DPOAH takes effect whenever you become unable to make decisions – for instance, during surgery, or even when you become temporarily unconscious. A Living Will takes effect only when there is no hope for recovery. Under New Hampshire law, if the terms of your advance directive conflict, the DPOAH will overrule the Living Will.

### What is the difference between a DNR order and an advance directive?

In the event that your heart stops beating and you stop breathing, health care providers will normally perform *cardiopulmonary resuscitation (CPR)* to try to restart your breathing and heartbeat. However, you may decide that you do not want CPR performed. In this case, you may ask for a Do Not Attempt Resuscitation (DNR) or a Portable-DNR (for use outside of a hospital or nursing home facility) order to be written. The differences between a DNR and an advance directive are: an advance directive is not a medical order, even though it is a legally recognized document; a DNR order is a medical order; a DNR order applies only if your heart stops beating and you stop breathing, while an advanced directive deals with many other medical issues and decisions, such as whether to provide medically assisted feeding or hydration. You may want to include your wishes about DNR orders in your advance directive.

### Why would I want a DNR order?

There is an attempt to provide everyone with CPR unless they indicate otherwise. Attempts at CPR are rarely successful when someone is very frail or has a serious illness, and both failed and successful attempts at CPR may often cause additional suffering. Talking with your doctor or other health providers can help you understand the potential benefits and burdens of CPR and whether a DNR or Portable-DNR order is your preferred choice. A DNR only refers to CPR and does not mean that all other treatments (e.g., pain relief, comfort care, etc.) are stopped.

### What is POLST?

Provider Orders for Life Sustaining Treatment is an approach, practiced nationally, to end-of-life care for individuals whose life expectancy is one year or less. It creates MD or APRN orders that are discussed and agreed upon with the patient in a form that adheres to New Hampshire statutes regarding DNR, and that is portable between healthcare systems and institutions within the state. The yellow forms, obtainable from providers, are medical orders that reflect a discussion between patient and provider about the components of care which are to be used, and the form bears the signatures of both.

### What if I want more than one person to make my health care decisions?

Some people want to designate more than one person to be their agent. For example, a person may want all three of their children to share responsibility for medical decisions. If you list more than one person as your agent, it is important to know that the first person listed will be your decision-maker, followed by the next person listed, and so on. If you desire a different decision-making process (such as making sure all of your agents agree before a decision is made), you must make this clear in your advance directive.

### How is it determined whether I am unable to make decisions about my medical care?

If the doctor or APRN (advanced practice registered nurse) responsible for your care determines that you are unable to understand the significant risks and benefits of your health care decisions, they can document that you do not have “*capacity*”, in which case your health care agent, if you have designated one, will make decisions for you. This is not a permanent designation; if your doctor or APRN later determines that you have regained capacity, you will be able to make your own health care decisions once again. If, when you do not have capacity to make medical decisions, you want the decisions of your agent to be followed even if you object to them, you must make that clear in your advance directive.

### What if a serious injury or sudden illness leaves me unconscious, unaware, and unlikely to recover?

You would initially receive all the medical care required to keep you alive. If the doctors believed there was little chance you would ever recover the ability to know who you are or to respond to those around you, would you want to continue life support? Your ‘advance directives’ or conversations about this issue beforehand would instruct the person or people you have designated as your agent regarding continuation of life-sustaining treatment in that situation. You could ask to have your care focused on keeping you comfortable without using medical interventions to keep you alive, if that was your preference.

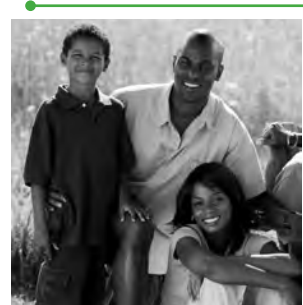
### What does the Advance Directive not accomplish?

An Advance Directive is a guide that only covers certain important health care decisions. Your wishes, expressed in an advance directive, will need to be put into medical orders when you are determined to lack capacity to make medical decisions. An advance directive does not give your agent any power or authority unless and until you are determined to lack capacity to make health care decisions. RSA 137J restricts certain types of health care decisions the agent can make. An advance directive does not provide for other important personal or financial management matters.

### Who will make my decisions if I do not complete advance directive documents?

In 2015, RSA137J was amended to allow for a medical surrogate to make decisions on behalf of a patient without a judicial order or court involvement, for a limited time (up to 90 days), in the following order of priority:

- (a.) The patient's spouse, or civil union partner or common law spouse as defined by RSA 457:39, unless there is a divorce proceeding, separation agreement, or restraining order limiting that person's relationship with the patient.
- (b.) Any adult son or daughter of the patient.
- (c.) Either parent of the patient.
- (d.) Any adult brother or sister of the patient.
- (e.) Any adult grandchild of the patient.
- (f.) Any grandparent of the patient.
- (g.) Any adult aunt, uncle, niece, or nephew of the patient.
- (h.) A close friend of the patient.
- (i.) The agent with financial power of attorney or a conservator appointed in accordance with RSA 464-A.
- (j.) The guardian of the patient's estate.



The authority of this medical surrogate is in effect for up to 90 days and cannot be extended unless the patient is imminently dying. Beyond this time, a guardian must be appointed by Probate Court, following a petition and formal hearing. You must complete Advance Directives if you want to designate someone to make decisions for however long this is needed, or if you would not select someone who would otherwise be selected by the statute.

### Are my old advance directive documents still valid?

Yes. An advance directive does not need to be renewed. However, if you want to change something in your advance directive document, you must complete a new one. You might want to re-examine your health care wishes from time to time. New Hampshire's Advance Directive law changed on January 1, 2015, however, if you have an advance directive document that was created before this date, it will still be honored under New Hampshire law.

### Can I revoke my advance directive document?

You can revoke or cancel your advance directive document orally or in writing at any time. A separation, divorce, or marriage annulment action will automatically revoke your DPOAH if your spouse or partner is your agent and you have not named an alternate in your document. Additionally, if a protective order is filed between you and your agent, your DPOAH will also be automatically revoked if you have not named an alternate agent.

### What if my advance directive document was completed in another state?

New Hampshire law states "An advance directive, living will, or similar document executed in another state, and valid according to the laws of the state where it was completed, shall be as effective in this state as it would have been if completed according to the laws of New Hampshire." Generally, it is recommended that you complete a NH advance directive if you live in NH to avoid confusion over nuances in New Hampshire Law which may not be clearly addressed in out-of-state forms.

### Who should have copies of my advance directive document?

Copies of your documents should be with your doctor, your hospital, or long-term care facility, the person(s) you select as your agent, and members of your family. Ideally the original documents should be stored where you keep your other important legal papers such as wills, birth certificates and social security cards.

### How will my health care providers know I have an advance directive?

You should tell your doctor, nurses or other health care providers that you have an advance directive and provide them with a copy for your medical record. Any time you are admitted to a hospital, you will be asked if you have an advance directive. If you know that you will be admitted to a hospital, you should bring a copy of your document with you.

### Do I need an attorney?

You do not need an attorney to create an advance directive document. You can simply use the form in this brochure, which is language substantially similar to New Hampshire laws. However, if you have any questions or special concerns, you can talk with an attorney, doctor or trained staff from a hospital or hospice. You can get the statutory forms from NH Revised Annotated Statutes 137-J.

### Who can witness the signing of my advance directive document?

In order to be valid, your advance directive document can be signed either in the presence of two witnesses or a notary. Your witnesses cannot be anyone who may be in a position to make health care decisions for you such as your health care agent, health care provider, spouse or heir. One witness may be an employee of any of your health or residential care providers.

### Why would I want to allow my health care agent to make decisions over my objections?

A DPOAH allows your agent to make decisions if you are unconscious or unable to communicate your wishes. A DPOAH may also be used to allow your agent to make decisions for you even if you are conscious and able to communicate but do not have capacity to make health decisions due to a condition that affects your ability to understand the significant risks and benefits of your health care decisions, such as Advanced Alzheimer's disease or dementia. *This is a time when you might want to allow your agent to make a decision over your objections. Your agent is a person you trust to make health care decisions based on what your wishes were when you had capacity and what they know your own values/wishes to be.* When you sign your advance directive, you must decide whether or not to give up your right to object to your agent's decision about treatments, *that is, allow your agent to make decisions about treatment even if you object to that decision at a time when you are unable to understand the significant risks and benefits of that decision.*

If you do not give up this right, treatment cannot be given or withheld over your objection. However you decide to answer the treatment against objection option, you can still change or cancel your DPOAH at any time by deciding you want to change your choice of an agent.



*It's your right  
to participate and plan for your care.*

## Selecting Your Durable Power of Attorney for Health Care or Health Care Agent

When you decide to pick someone to speak for you in a medical crisis, in case you are not able to speak for yourself, there are several things to think about. The chart below is a tool to help you decide who the best person is. Usually it is best to name one person or agent to serve at a time, with at least one alternate or back-up person, in case the first person is not available when needed.

Compare up to 3 people with this tool. The person best suited to be your DPOAH or Health Care Agent rates well on these qualifications ...

Name #1:		
Name #2:		
Name #3:		
		1. Meets the legal criteria in your state for acting as agent or representative? (This is a must! See page 7 – Disclosure.)
		2. Would be willing to speak on your behalf.
		3. Would be able to act on your wishes and separate his or her own feelings from yours.
		4. Lives close by or could travel to be at your side if needed.
		5. Knows you well and understands what’s important to you.
		6. Could handle the responsibility.
		7. Will talk with you now about sensitive issues and will listen to your wishes.
		8. Will likely be available long into the future.
		9. Would be able to handle conflicting opinions among family members, friends, and medical personnel.
		10. Can be a strong advocate in the face of an unresponsive doctor or institution.

*This worksheet adapted by the American Bar Association’s Commission on Legal Problems of the Elderly from R. Pearlman, et. al., Your Life Your Choices – Planning for Future Medical Decisions: How to Prepare a Personalized Living Will, Veterans Administration Medical Center, Seattle, Washington. Reprinted by permission.*

### What to Do After you Pick a Health Care Agent

- Talk to your agent about the qualifications on this worksheet.
- Ask permission to name him or her as your agent.
- Discuss your health care wishes and values and fears with your agent and doctor or health provider.
- Make sure your agent and your doctor or health provider gets a copy of your advance directive.

“Making Medical Decisions for Someone Else: A New Hampshire Handbook” is a resource available at [www.healthynh.com](http://www.healthynh.com). It may also be available at the care facility where you receive healthcare.



## Durable Power of Attorney for Health Care: Disclosure Statement

**This is an important legal document. Before signing it, you should know these important facts:**

Except if you say otherwise, this document gives the person you name as your health care agent the authority to make any and all health care decisions for you when you lack the capacity to make health care decisions for yourself (in other words, you no longer have the ability to understand and appreciate generally the nature and consequences of a health care decision, including the significant benefits and of and reasonable alternatives to any proposed health care.) "Health care" means any treatment, service or procedure to maintain, diagnose or treat your physical or mental condition.

Your health care agent, therefore, will have the power to make a wide range of health care decisions for you. Your health care agent may consent (in other words, give permission), refuse to consent or withdraw consent to medical treatment, and may make decisions about withdrawing or withholding life-sustaining treatment. Under no condition will your health care agent be able to direct the withholding of food and drink that you are able to eat and drink normally.

You may state in this document any treatment you do not want, or treatment you want to be sure you receive. You may attach additional pages to the directive if you need more space to complete your statement. Your health care agent's power will begin when your doctor or nurse practitioner certifies that you lack the capacity to make health care decisions (in other words, that you are not able to make health care decisions).

Your health care agent cannot consent to or direct any of the following:

- commitment to a state institution; psychosurgery; an experimental treatment of any kind; or
- sterilization; or
- termination of treatment if you are pregnant and if the withdrawal of that treatment is deemed likely to terminate the pregnancy, unless the treatment will be physically harmful to you or prolong severe pain which cannot be alleviated by medication.

If, for moral or religious reasons, you do not want to be treated by a doctor or Advanced Practice Registered Nurse (APRN) or be examined by a doctor or APRN to certify that you lack capacity, you must say so in your advance directive and you must name someone who can certify your lack of capacity. That person cannot be your health care agent or alternate health care agent, or any person ineligible to be your health care agent.

Your health care agent shall be directed by your written instructions in this directive when making decisions on your behalf, and will be further guided by your medical condition or prognosis. Unless you state otherwise in the directive, your health care agent will have the same power to make decisions about your health care as you would have had, if those decisions made by your health care agent are made consistent with state law.

It is important that you discuss this document with your doctor or other health care providers before you sign it, to make sure you understand the nature and range of decisions which could be made for you by your health care agent. If you do not have a health care provider, you should talk with someone who is knowledgeable about these issues and can answer your questions.

Check with your community hospital or hospice for trained staff. You do not need a lawyer's assistance to complete this directive, but if there is anything in this directive you do not understand, you should ask a lawyer to explain it to you.

The person you choose as a health care agent should be someone you know and trust, and he or she must be at least 18 years old. If you choose your health or residential care provider (such as your doctor, APRN, or an employee of a hospital, nursing home, home health agency or residential care home, other than a relative), that person will have to choose between acting as your health care agent or as your health or residential care provider, because the law does not permit a person to do both at the same time.



You should talk in advance with the person(s) you want to be your health care agent (agent) about health care decisions you would make for yourself if you were able and about their willingness to follow through on the decisions you document in your advance directives. Your agent will not be liable for health care decisions made in good faith on your behalf.

In addition to your chosen agent, you should also talk about this directive with your doctor or nurse practitioner (APRN), and give each one a signed copy. You should write on the directive itself the people and institutions who will have signed copies.

You should consider choosing an alternate health care agent in case your health care agent is unwilling, unable, unavailable or not eligible to act as your health care agent at the time it is determined that you are unable to make health care decisions for yourself. Any alternate health care agent you choose will then have the same authority to make health care decisions for you, if the primary agent cannot serve.

Even after you have signed this directive, you will make health care decisions for yourself as long as you are able to do so, and treatment cannot be given to you or stopped over your objection. However, if you have been determined by your doctor or APRN to lack capacity, you may want treatments to be withheld or given according to your agent's directions, even if you vocally object to those treatments.

You have the right to revoke the power given to your health care agent by telling him or her, or by telling your health care provider, orally or in writing, that you no longer want that person to be your health care agent.

Once this directive is executed it cannot be changed or modified. If you want to make changes, you must make an entirely new directive.

You have the right to exclude or strike references to advanced practice registered nurse in your advance directive and if you do so, your advance directive shall still be valid and enforceable.

This power of attorney for health care will not be valid unless it is signed in the presence of two (2) or more qualified witnesses, who must both be present when you sign and who will acknowledge your signature on the directive, OR in the presence of a notary public or justice of the peace. The following persons may not act as witnesses:

- The person you have designated as your health care agent
- Your spouse or heir at law, or beneficiaries named in your will or in a deed
- Your attending physician or APRN, or person acting under the direction or control of the attending physician or APRN

Only one of the two witnesses may be your health or residential care provider or one of your provider's employees.

# NEW HAMPSHIRE ADVANCE DIRECTIVE

*NOTE: This form has two sections: the Durable Power of Attorney for Health Care and the Living Will. You may complete both sections, or only one section.*

## **SECTION I. DURABLE POWER OF ATTORNEY FOR HEALTH CARE**

I, \_\_\_\_\_, ( \_\_\_\_\_ ), hereby appoint \_\_\_\_\_  
(Name) (Date of Birth) (Name of Health Care Agent)

of \_\_\_\_\_  
(Health Care Agent's address and phone #)

*(If you choose more than one agent, they will have authority in priority of the order their names are listed, unless you indicate another form of decision making.)* as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this directive or as prohibited by law. This Durable Power of Attorney for Health Care shall take effect in the event I lack the capacity to make my own health care decisions.

In the event the person I appoint above is unable, unwilling or unavailable, or ineligible to act as my health care agent, I hereby appoint \_\_\_\_\_

(Name of Health Care Agent)

of \_\_\_\_\_  
(Health Care Agent's address and phone #)

### Statement of Desires, Special Provisions, and Limitations about Health Care Decisions

For your convenience in expressing your wishes, some general statements concerning the withholding or removal of life-sustaining treatment are set forth below. (Life-sustaining treatment is defined as procedures without which a person would die, such as but not limited to the following: medically administered nutrition and hydration, mechanical respiration, kidney dialysis or the use of other external mechanical and technological devices, drugs to maintain blood pressure, blood transfusions, and antibiotics.) There is also a section which allows you to set forth specific directions for these or other matters. If you wish, you may indicate your agreement or disagreement with any of the following statements and give your agent power to act in those specific circumstances.

#### **A. LIFE-SUSTAINING TREATMENT**

1. If I am near death and lack the capacity to make health care decisions, I authorize my agent to direct that:

*(Initial beside your choice of (a) or (b).)*

\_\_\_\_\_ (a) life-sustaining treatment not be started, or if started, be discontinued.

-or-

\_\_\_\_\_ (b) life-sustaining treatment continue to be given to me.

2. Whether near death or not, if I become permanently unconscious I authorize my agent to direct that:

\_\_\_\_\_ (a) life-sustaining treatment not be started, or if started, be discontinued.

-or-

\_\_\_\_\_ (b) life-sustaining treatment continue to be given to me.



I hereby acknowledge that I have been provided with a disclosure statement explaining the effect of this Durable Power of Attorney for Health Care (DPOAH). I have read and understand the information contained in the disclosure statement.

The original of this Durable Power of Attorney for Health Care ( DPOAH) will be kept at \_\_\_\_\_

and the following persons and institutions will have copies:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Principal's signature: \_\_\_\_\_

*[If you are physically unable to sign, this DPOAH may be signed, by someone else writing your name, in your presence and at your express direction.]*

***THIS POWER OF ATTORNEY DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC OR A JUSTICE OF THE PEACE.***

We declare that the principal appears to be of sound mind and free from duress at the time the Durable Power of Attorney for Health Care is signed, and that the principal affirms that he or she is aware of the nature of the Durable Power of Attorney for Health Care and is signing it freely and voluntarily.

Witness \_\_\_\_\_ Address \_\_\_\_\_

Witness \_\_\_\_\_ Address \_\_\_\_\_

**If using a Notary Public or Justice of the Peace:**

STATE OF NEW HAMPSHIRE

COUNTY OF \_\_\_\_\_

The foregoing Durable Power of Attorney for Health Care was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ ("the Principal").

\_\_\_\_\_

Notary Public / Justice of the Peace

My commission expires: \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_  
(Print Name) (Date of Birth)

**SECTION II. LIVING WILL**

Declaration made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

I, \_\_\_\_\_, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, do hereby declare:

If at any time I should have an incurable injury, disease, or illness and I am certified to be near death or in a permanently unconscious condition by two physicians or a physician and an APRN, and two physicians or a physician and an APRN have determined that my death is imminent whether or not life-sustaining treatment is utilized and where the application of life-sustaining treatment would serve only to artificially prolong the dying process, or that I will remain in a permanently unconscious condition, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication, the natural ingestion of food or fluids by eating and drinking, or the performance of any medical procedure deemed necessary to provide me with comfort care. I realize that situations could arise in which the only way to allow me to die would be to discontinue medically administered nutrition and hydration.

***(Initial below if it is your choice)***

In carrying out any instruction I have given under this section, I authorize that even if all other forms of life-sustaining treatment have been withdrawn, medically administered nutrition and hydration continue to be given to me. \_\_\_\_\_

In the absence of my ability to give directions regarding the use of such life-sustaining treatment, it is my intention that this declaration shall be honored by my family and health care providers as the final expression of my right to refuse medical or surgical treatment and accept the consequences of such refusal.

I understand the full importance of this declaration, and I am emotionally and mentally competent to make this declaration.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Principal's signature: \_\_\_\_\_

*[If you are physically unable to sign, this Living Will may be signed by someone else writing your name, in your presence and at your express direction.]*

\_\_\_\_\_, \_\_\_\_\_  
(Print Name) (Date of Birth)

***THIS LIVING WILL DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC OR A JUSTICE OF THE PEACE.***

We declare that the principal appears to be of sound mind and free from duress at the time the Living Will is signed, and that the principal affirms that he or she is aware of the nature of the Living Will and is signing it freely and voluntarily.

Witness \_\_\_\_\_ Address \_\_\_\_\_

Witness \_\_\_\_\_ Address \_\_\_\_\_

**If using a Notary Public or Justice of the Peace:**

STATE OF NEW HAMPSHIRE

COUNTY OF \_\_\_\_\_

The foregoing Living Will was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_ (“the Principal”).

\_\_\_\_\_

Notary Public / Justice of the Peace

My commission expires: \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

(Print Name)

(Date of Birth)

## DEFINITIONS

### **Allow Natural Death (AND)**

Allow Natural Death is an alternative language used by some people who do not want CPR but want only comfort care.

### **Attending physician or attending advanced practice registered nurse (APRN) –**

A doctor or APRN who has primary responsibility for your treatment and care. An APRN means a registered nurse having specialized clinical qualifications under state law.

**Capacity to make health care decisions** – The ability to generally understand the risks and benefits of a health care decision, as well as any alternate options for treatment. This is determined by a doctor or APRN.

**CPR or Cardiopulmonary resuscitation** – Emergency medical procedure used to try to restart heartbeat and breathing, which can involve blowing into the mouth, pushing on the chest, inserting a breathing tube into the windpipe, giving medicines into your vein, and electrical shock.

**Comfort care** – Keeping you as comfortable and peaceful as possible, including pain medication, giving you ice chips and lip ointment, turning your body to prevent bed sores and bathing you.

**DNR or Do Not Attempt Resuscitation order** – A medical order placed in your medical chart in a hospital or other health facility that says you do not want CPR performed if your heart or breathing stops. You can extend a DNR outside a hospital or health facility by completing a Portable-DNR order. It is a bright pink colored form that stays with the person who requests it.

**Guardianship** – A guardianship of an incompetent person is established by the Probate Court when it determines that the functional limitations of a person have declined to the point where that person's ability to participate in and perform minimal activities of daily living is not present. Incompetence of the person must be proved "beyond a reasonable doubt" and there must be no other available solutions that would impose fewer restrictions on the person. The person loses the right to make a(ny) decision. The court appointed guardian shall make any decision.

**Health care agent** – Someone chosen as your Durable Power of Attorney for Health Care to make health care decisions when you are unable to express your own wishes for care or treatment.

**Health care decision** – This means informed consent, refusal to give informed consent or withdrawal of informed consent to any type of health care, treatment, admission to a health facility or procedure to diagnose or maintain an individual's physical or mental condition.

**Hospice care** – A team approach to provide comprehensive medical, nursing and social services, spiritual care and bereavement support for you and your family near the end of life.

**Intravenous or IV line** – A tube placed in your vein that is used to give you fluids, blood or medication.

**Life-sustaining treatment** – "Life-sustaining treatment" includes, but is not limited to, the following: medically administered nutrition and hydration, mechanical respiration, kidney dialysis, or the use of other external mechanical or technological devices. "Life-sustaining treatment" may include drugs to maintain blood pressure, blood transfusions, and antibiotics. "Life-sustaining treatment" shall not include the administration of medication, natural ingestion of food or fluids by eating and drinking, or the performance of any medical procedure deemed necessary to provide comfort or to alleviate pain.

**Medically administered nutrition (feeding)** – Using IVs or tubes to supply food when you are unable to eat. A feeding tube is a medical tube through which food or water is put into your body. It does not include the natural process of eating foods.

**Medically administered hydration** – Using IVs or tubes to supply water when you are unable to drink. It does not include the natural process of drinking fluids.

**Near death** – An incurable condition caused by injury, disease or illness that reasonable medical judgment finds will cause death at any time, so that life-sustaining treatment will only postpone death. This is determined by a doctor or APRN working with an additional doctor.



**Organ and tissue donation** – Giving your usable organs for transplantation into others, which can save or improve their lives. Organs you can donate: heart, kidneys, pancreas, lungs, liver, and intestines. Tissue you can donate: cornea, skin, bone marrow, heart valves, and connective tissue. To be transplanted, organs must receive blood until they are removed from your body. Therefore, it may be necessary to place you on a breathing machine temporarily or provide other organ-sustaining treatment. Doctors evaluate whether you have organs or tissue suitable for transplant at or near the time of death. Your body can still be shown and buried after your death.

**Palliative care** – Palliative care is specialized medical care for people living with serious illness. It focuses on providing relief from the symptoms and stress of a serious illness. The goal is to improve quality of life for both the patient and the family.

**Permanently unconscious** – A lasting condition, indefinitely without improvement, in which you are not aware of your thought, yourself and environment and other indicators of consciousness are absent as determined by a neurological assessment by a doctor in consultation with your doctor or APRN.

**Persistent vegetative state** – An irreversible condition where reasonable medical judgment finds the complete loss of key brain functions. It results in the end of all thinking and consciousness, although heartbeat and breathing continue. Periods of sleep and wakefulness will still occur.

**Trial of treatment** – To try treatment(s) for a period of time (such as 1 or 2 weeks) until it is decided that the treatment will or will not succeed.

**Provider** – “Provider” or “Medical Care Provider” is used in this document to refer to any licensed professional providing medical, rehabilitative, or residential or custodial care under medical orders. It is important to note that the only providers authorized by law to determine a patient's capacity to make medical decisions, to recognize a surrogate, to authorize POLST or DNR orders and Medical Doctors and Advanced Practice Registered Nurses.

**POLST** – Provider Orders for Life Sustaining Treatment. Medical orders for patients likely to be in the last year of life, containing orders (meeting form requirements for Portable DNR orders) which guide medical treatment decisions. A POLST form is intended to move with the patient between health and residential care facilities and is signed by patient and Provider.

**Medical Surrogacy** – Medical Surrogacy is a provision in New Hampshire statute that temporarily recognizes the authority of a relative or friend to make a patient's healthcare decisions in the absence of an advanced directive until the patient's death, or a guardian is appointed or ninety days pass, whichever is first. The authority may not be extended unless the patient is “near death” and, like advance directive-appointed agents, cannot commit a patient to a psychiatric facility, or consent to sterilization, psychosurgery, electro-convulsive treatment, or an experimental treatment of any kind. Consents are limited with regard to pregnant patients. The law sets out the priority order for who may be recognized as follows:

- (a) The patient's spouse, or civil union partner or common law spouse as defined by RSA 457:39, unless there is a divorce proceeding, separation agreement, or restraining order limiting that person's relationship with the patient.
- (b) Any adult son or daughter of the patient.
- (c) Either parent of the patient.
- (d) Any adult brother or sister of the patient.
- (e) Any adult grandchild of the patient.
- (f) Any grandparent of the patient.
- (g) Any adult aunt, uncle, niece, or nephew of the patient.
- (h) A close friend of the patient.
- (i) The agent with financial power of attorney or a conservator appointed in accordance with RSA 464-A.
- (j) The guardian of the patient's estate.

The individual may be named as surrogate by the provider or APRN, and authority is granted when the individual is named in the medical record. The priority order must be adhered to and the surrogate decision maker must be willing and able. A surrogate with higher priority must replace one with lower priority if found to be willing and able.



Foundation for  
Healthy Communities

*The information contained in this booklet was prepared by the*

## **New Hampshire Healthcare Decisions Coalition**

a group of organizations and individuals that helps people to plan for their health care,  
talk about their choices and have them respected.

*It has been endorsed by the following organizations:*

New Hampshire Hospital Association  
New Hampshire Medical Society  
Home Care Association of New Hampshire  
New Hampshire Health Care Association  
New Hampshire Hospice and Palliative Care Organization

**Notice to  
Health Care Provider**

I have:  
\_\_\_\_ a Durable Power of Attorney  
for Health Care  
\_\_\_\_ a Living Will

The signed original document is  
located at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In case of emergency, contact:

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City, State, Zip  
\_\_\_\_\_  
Phone

**Advance Directive Card**

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\_\_\_\_\_  
Address  
\_\_\_\_\_  
City, State, Zip  
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Signature

**Please see reverse side  
for important information**

Fold Here

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Signature

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*Cut these Advance Directive cards along the dotted lines, fold them in half and keep them in your wallet.*





Foundation *for*  
Healthy Communities

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